

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

DUSTIN DUGAN, et al.,

Plaintiffs,

v.

KEVIN STARRETT, et al.,

Defendants.

Case No. 2:12-cv-811
JUDGE GREGORY L. FROST
Magistrate Judge King

ORDER

On December 16, 2014, Plaintiffs filed a notice of voluntary dismissal with prejudice of all claims against Defendants Village of New Lexington and Sky Wilson. (ECF No. 97.) Plaintiffs purport to take this action under Federal Rule of Civil Procedure 41; however, the Sixth Circuit has held that Rule 41 is confined to the dismissal of an entire *action* and cannot provide a mechanism through which select parties or claims can be dismissed. *Letherer v. Alger Group, L.L.C.*, 328 F.3d 262, 266 (6th Cir. 2003), *recognized as overruled on other grounds in Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008); *see also AmSouth Bank v. Dale*, 386 F.3d 763, 778 (6th Cir. 2004) (citing *Letherer*); *Coleman v. Ohio State Univ. Med. Ctr.*, No. 2:11-cv-49, 2011 WL 3273531, at *6 (S.D. Ohio Aug. 1, 2011).

Recognizing that filings are to be construed by their substantive content and not by their labels, the Court will construe the motion as one under Federal Rule of Civil Procedure 21. This Court, therefore, **GRANTS** the motion and **DISMISSES WITH PREJUDICE** all claims against Defendants Village of New Lexington and Sky Wilson.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE